

Memorandum

TO: NEIGHBORHOOD SERVICES &
EDUCATION COMMITTEE

FROM: Joseph Horwedel

SUBJECT: DISTINCTIVE NEIGHBORHOOD
PROGRAM POLICY OPTIONS

DATE: April 27, 2009

Approved

Date

5-5-09

COUNCIL DISTRICT: City-Wide
SNI AREA: All

RECOMMENDATION

Full consideration by the City Council of staff's recommendation that the City Council accept the findings of the Distinctive Neighborhood Program at their June 2, 2009 evening meeting.

OUTCOME

The acceptance of the findings of the Distinctive Neighborhood Program will facilitate implementation of the Program if/when resources are made available. The potential outcomes associated with the Distinctive Neighborhood Program include:

1. Opportunities for neighborhoods to identify and apply for regulations to protect specific physical characteristics of their neighborhood.
2. A more streamlined survey and designation process for historic San Jose neighborhoods.
3. A discretionary Planning process to review proposals to demolish older, potentially historic homes.

EXECUTIVE SUMMARY

Staff has conducted research and extensive public outreach to develop four potential policy options to establish the Distinctive Neighborhood Program. Each option would require additional staff work and outreach to return to Council for consideration of ordinances to amend the Municipal Code. One option is intended to be applied citywide and three of the options are intended to be applied on a neighborhood specific basis. The neighborhood specific policy options are proposed as a "toolkit" of options available to the community, meaning a neighborhood interested in additional protection through the Distinctive Neighborhood Program could request the City to apply one or more of the options to their neighborhood. In the case of each neighborhood specific option, substantial

neighborhood support (i.e., 2/3 or some other large majority percentage to be determined) should exist before the policy option would be applied to justify imposing more restrictive development standard(s) or permitting requirements than typically required.

- **Require Permit Citywide to Demolish Older Homes.** The citywide option addresses the issue of demolitions of older, potentially historic homes occurring without Planning review and would require that demolition proposals of homes over a certain age (i.e., 50 years) or built before a certain date (i.e., 1945) are evaluated as part of a Single-Family House Permit process. Staff recommendation regarding a specific age or date would be made as part of the drafting of an ordinance amending Title 20 that would be brought forward for future Council consideration.
- **Conservation Study Area.** This neighborhood specific option would allow for a streamlined historic survey process to identify and designate historic neighborhoods and require that new construction or exterior remodels obtain Single-Family House Permits, reviewed for consistency with the existing *Your Old House: Guidelines for Preserving San Jose Homes*. As with a Conservation Area, ultimate decision-making on whether to approve a Conservation Study Area would rest with the City Council.
- **Zoning Overlay.** This neighborhood specific option is an overlay which would allow neighborhoods to request fixed development standards that exceed the base zoning designation. Examples could include neighborhoods requesting to be regulated as single-story districts, or establishing increased setbacks for a specific neighborhood to reflect that neighborhood's distinct setback pattern. Ultimate decision-making on whether to approve a Zoning Overlay would rest with the City Council.
- **Design Guidelines Overlay.** This neighborhood specific option is an overlay to require Planning review, through a Single-Family House Permit application, in certain identified areas. New construction or exterior alterations would be reviewed by Planning staff for conformance with specific design guidelines reflecting the distinctive characteristics of a neighborhood. Preparation of detailed design guidelines for a neighborhood would require substantial consultant work. Examples could include design review for two story homes or second story additions in neighborhoods that are primarily single story, or design review for attached garages in neighborhoods that primarily feature detached garages to ensure the new construction occurs in a compatible manner. Typically, Planning staff brings forward design guidelines for acceptance by Council prior to staff's utilization of those guidelines in the development review process. As with the Zoning Overlay, ultimate decision-making on whether to approve a Design Guidelines Overlay would rest with the City Council.

Implementation of any of these policy options will require revisions to the Municipal Code. In the case of the neighborhood specific policy options, these Code revisions would result in enabling legislation only, allowing communities to apply for various tools that would provide additional protection in their neighborhood. The first two policy options in the list above are variations of existing legislation and are more achievable to implement in the short term if funding resources were identified and made available to the Planning Division. The last two policy options present new ideas

and may be more appropriately considered as implementation measures for the General Plan Update. Staff work to implement all four policy options is expected to take approximately 0.5 FTE of a Planner I/II.

BACKGROUND

Launching the Distinctive Neighborhood Program

In the 2008/2009 budget, the City Council approved funding for the development of a "Distinctive Neighborhood Program" to address neighborhood concerns regarding the physical development of single-family neighborhoods, including: demolitions, additions and new construction that is out of character with existing neighborhoods. The Department of Planning, Building and Code Enforcement has been directed to develop this Program, conduct outreach, and have a recommendation for City Council by June 2009.

The goal of the Distinctive Neighborhood Program is to add further protection and enhancement to San Jose's unique residential neighborhoods by: defining and identifying the characteristics of distinct neighborhoods based on community input; reviewing existing protections; and proposing potential policy changes.

Existing Permitting Process

The City Council approved the Single-Family House Permit process in 2000 to promote orderly development and to enhance the character, stability, integrity and appearance of single-family neighborhoods. A Single-Family House Permit is required for new construction that:

- Exceeds 30 feet or 2 stories in height
- Has a F.A.R. (ratio of house floor area to lot area) that exceeds 0.45
- Occurs on a site listed on the Historic Resources Inventory

Single-Family House Permit applications are evaluated using the adopted *Single-Family Design Guidelines* that are intended to help maintain the quality of San Jose's neighborhoods. Single-Family House Permits for historic homes and neighborhoods listed on the Historic Resources Inventory are evaluated using the adopted *Your Old House: Guide for Preserving San Jose Homes*.

If no Planning Permit is required, the property owner may proceed to the Building Division for building permits without any Planning or design review. Current regulations governing single-family home construction or additions allow physical changes including demolition to facilitate new construction that can substantially alter homes and, over time through the cumulative effect of many individual demolitions and remodels, alter the character of neighborhoods.

ANALYSIS

Planning staff has identified one citywide policy option and three neighborhood specific policy options as part of the Distinctive Neighborhood Program. This proposal, as well as an outline and analysis of each of the four policy options proposed, is discussed below. This section ends with a

workload assessment for the work required to prepare ordinances to implement the Program. The cost implications for the implementation of the Program are outlined in the Cost Implications section of this memorandum.

No resources are available in the remainder of FY08/09 or FY09/10 to implement any of the four options. Should a small amount of resources become available, staff is recommending that the citywide policy option, regarding demolition of older homes and the Conservation Study Area be implemented first for the following reasons: they are variations of existing legislation; they address urgent concerns regarding demolitions; and they are more achievable to implement in the short term. The Zoning Overlay and the Design Guideline Overlay options present new ideas that may require significant work to implement and may be more appropriately considered as implementation measures for the General Plan Update.

Citywide and Neighborhood Specific Approaches

Planning staff has been considering the extent to which Distinctive Neighborhood policies should be applied across the City versus specific neighborhoods. Current regulations for single-family development in San Jose are citywide and don't focus on the individual characteristics of neighborhoods and how those can be preserved. During the first round of outreach, most residents indicated that demolitions and significant remodels can cause negative impacts on older neighborhoods and should be addressed quickly citywide. Regarding other aspects of neighborhood character, many residents felt that a neighborhood specific approach would be more appropriate since every neighborhood is different due to their distinct qualities. Some neighborhoods may prefer tighter regulations while others would not.

Given the community feedback, staff has identified four policy options to address the issues and concerns of residents. The options are outlined in detail below.

Citywide Policy Option - Require Permit Citywide to Demolish Older Homes

This citywide option addresses the issue of demolitions of older, potentially historic, homes occurring without Planning review and would require that demolition proposals of homes over a certain age (i.e., 50 years) or built before a certain date (i.e., 1945) are evaluated as part of a Single-Family House Permit process. The goal of this citywide option is to reduce the loss of potentially historic structures, and add those structures, where appropriate, to the Historic Resources Inventory.

The formulation of this policy option came in response to a major community concern regarding the demolition of homes in neighborhoods. This concern was prevalent in four out of the five community meetings in the initial round of outreach and was related to both the type of construction replacing the house being demolished and the loss of historic fabric.

A Single-Family House Permit is currently required when a site is listed on the Historic Resources Inventory. However, many areas of the City may be eligible for listing on the Inventory but have not gone through the time-consuming and costly survey process. Under current Single-Family House Permit regulations, a potentially historic house can be demolished without Planning review if the replacement house does not trigger any of the Single-Family House Permit thresholds. The policy

option would be to add one of the following options as a new threshold for requiring a Single-Family House Permit:

- a. Demolitions of homes over a certain age (i.e., 50 years), or
- b. Demolitions of homes built before a certain date (i.e., pre-World War II)

Setting the threshold at 50 years aligns with the National Register and California Register historic criteria. Alternatively, setting the threshold at the end of World War II (1945) would cover many older homes, and exclude more recent homes built when the style of buildings and the growth rate of the City changed significantly. Staff recommendation regarding a specific age or date would be made as part of drafting the ordinance amending Title 20, needed to implement this option and would be subject to additional analysis and outreach prior to Council consideration of the ordinance.

If Council adopted the ordinance, additional Single-Family House Permit applications would be submitted for proposed demolitions that meet the threshold criteria. As discussed at the outreach meetings, table 1 below presents the number of Single-Family House Permit applications submitted annually since 2006 and the estimated number of demolitions that have occurred in San Jose without any Planning review.

Table 1 – History of Single-Family House Permits and demolitions of single-family homes since 2006

Year	Number of Single-Family House Permits <u>issued</u> per year	Demolitions approved with a Single-Family House Permit	Estimated number of single-family demolitions issued <u>without</u> Planning review	Number of single-family houses demolished that are either 50 years or older or built on or before 1945
2006	52	6	55	45 are 50 years or older 27 built on/before 1945
2007	64	0	31	23 are 50 years or older 12 built on/before 1945
2008	27	0	31	22 are 50 years or older 6 built on/before 1945

The data show that using 50 years as a threshold, the number of additional Single-Family House Permit applications would most likely increase by approximately 50 to 100%, and using 1945 as a threshold, the number of Single-Family House Permit applications would likely increase by approximately 30 to 50%, compared with the average number of Single-Family House Permit applications submitted in the last three years.

This policy option is a relatively simple solution to implement, consisting of a Code revision to address a concern expressed by many neighborhoods. By establishing an age requirement, this option would capture most of the significant buildings and address the concerns of residents of older

neighborhoods, while not affecting construction occurring in newer neighborhoods where residents are not concerned with this issue. The filing of additional Single-Family House Permit applications may create the need for additional Planning staff to handle the increased workloads, maintain service delivery targets, and cost recovery goals.

Neighborhood Specific Policy Options

Staff is proposing three neighborhood specific policy options as a "toolkit" of overlays available to individual interested neighborhoods. A neighborhood interested in additional protection through the Distinctive Neighborhood Program could request that the City apply one or more of the options to their neighborhood. In the case of each neighborhood specific option, substantial neighborhood support (i.e., 2/3 or some other large majority percentage to be determined) should exist before the policy option would be applied to justify imposing more restrictive development standard(s) or permitting requirements than those set forth generally in the Zoning Code.

Implementation of these policy options will require revisions to the Municipal Code, including Title 20, the Zoning Code, and Title 13.48, the Historic Preservation Code. If adopted by the Council, these Code revisions would result in enabling legislation only and would not in themselves create overlays for specific neighborhoods. Instead, the City would have rules to allow communities to apply for various overlays that would provide additional protection in their neighborhood.

The Zoning Overlay and the Design Guidelines Overlay described below have been developed in the context of the General Plan Update process currently taking place in the City. As part of that process the City is exploring opportunities for locating and accommodating additional growth and intensification projected to take place by the year 2040. The relationship between areas of intensification, such as "transit corridors," "villages," and "hubs" and existing single-family neighborhoods will be determined as part of the General Plan Update process. The Zoning and Design Guidelines Overlay options proposed as part of this Program could potentially be implementation tools for neighborhood character policies anticipated to be strengthened as part of the General Plan Update process.

I. Conservation Study Area.

The goal of this option is to reduce the loss of historic "fabric" in older neighborhoods and ensure new construction is compatible with the existing neighborhood character. The Conservation Study Area designation would place neighborhoods on the City's Historic Resources Inventory, which would mean that exterior alterations to an existing home or the construction of a new home would require a Single-Family House Permit, and be reviewed for conformance with adopted guidelines, *Your Old House: Guide for Preserving San Jose Homes*.

The Conservation Study Area would be a simpler, faster, cheaper alternative for neighborhoods than the existing Conservation Area historic designation process in Title 13. A Conservation Area designation depends upon an in-depth survey consisting of two parts:

- 1- A context statement which outlines the general historic character of an area with details regarding, the patterns of development and the history of the area with emphasis on historically significant events and people.
- 2- Individual evaluations of all buildings located within the surveyed area and their contribution to the significance of the area.

The Conservation Study Area option suggested by staff would require only the context statement, saving the substantial time and consultant expense involved in evaluating individual homes. Individual house evaluations could be required for Single-Family House Permit applications that did not conform to *Your Old House: Guide for Preserving San Jose Homes* to determine the importance of the house being altered. Neighborhoods that may benefit from this overlay option are older parts of San Jose that have not been surveyed such as Willow Glen, the Rose Garden, and Northside.

The Historic Preservation Code, Title 13.48, would need to be revised to create the Conservation Study Area option. This option would address the concerns raised by many residents of older neighborhoods by requiring proposed construction in those neighborhoods to be reviewed by Planning staff. The filing of additional Single-Family House Permit applications could create the need for additional Planning staff to handle the increased workloads, maintain service delivery targets, and cost recovery goals.

II. Zoning Overlay

The goal of the Zoning Overlay option is to ensure new construction meets minimum development standards that reflect the distinct characteristics of individual neighborhoods. This option consists of an overlay which would allow neighborhoods to request fixed development standards that exceed the base zoning designation standards. In response to community input, potential Zoning Overlays might include:

1. *Single-story district* – An overlay could be established to limit development in a neighborhood to single-story or 17 feet in height, whichever is less. Neighborhoods that might be interested in remaining single story could be Eichler¹ neighborhoods.
2. *Distinct front setback district* – An overlay could require front setbacks that are greater than the standard front setback requirement of a conventional zoning district. For example, the neighborhood “Between The Gates” which is a two block neighborhood in south Willow Glen has houses that are all set back between 40 to 60 feet from the front property line. The neighborhood has conventional R-1-8 zoning standards, including a 25 foot front setback requirement, which would allow a new or remodeled house to be located as close as 25 feet from the front property line, substantially different from the existing neighborhood character. An overlay could be applied in this type of situation to require that new construction match the neighborhood setback, rather than the typical 25 foot minimum zoning district setback.

¹ Joseph Eichler (1900-1974) was a California based, post war residential real estate developer known for building homes in the Modernist style. Eichler homes are distinct and are primarily single-story.

3. *Detached garage district* – An overlay could establish additional regulations for attached garages in neighborhoods where the predominant pattern is detached garages. Regulations could require increased minimum garage setbacks from the face of the house, could require garages to be side-loaded, or could prohibit attached garages entirely and allow only detached garages.

In addition to the examples above, a neighborhood could identify the specific characteristics that make their neighborhood distinct and request a Zoning Overlay with specific development standards to ensure new construction is consistent with those characteristics.

To implement this option, an enabling ordinance is needed to the Zoning Code, Title 20. The ordinance would outline the criteria and process for applying for an overlay. This option would not result in additional Permit applications since it establishes minimum that would be implemented with building permits for new construction or additions.

III. Design Guidelines Overlay.

The goal of the Design Guidelines Overlay option is to ensure new single-family construction and additions are compatible with a neighborhood's distinctive characteristics. New single-family construction or exterior alterations would be reviewed by Planning staff through the Single-Family House permit process for conformance with specific design guidelines reflecting the distinctive characteristics of a neighborhood. Preparation of detailed design guidelines that capture the distinctive features of a neighborhood would require substantial consultant work and time.

This overlay concept could be used to require design review for two-story homes or second story additions in neighborhoods that are primarily single story, or design review for attached garages in neighborhoods that primarily feature detached garages to ensure new construction occurs in a compatible manner. This overlay option differs from the Zoning Overlay option in that the Zoning Overlay would establish strict, minimum standards confirmed as part of a Building Permit (no staff discretion), while the Design Guidelines Overlay option would establish a design review process by which staff would exercise discretion in applying guidelines. For example, residents of an Eichler neighborhood could apply for a Zoning Overlay to prohibit a second story or for a Design Guidelines Overlay to ensure a second story was designed in a manner consistent with guidelines created for that neighborhood.

The Zoning Code, Title 20, would need to be revised to enable this tool. If the Council adopts the enabling ordinance, then under this concept a neighborhood could apply for a Design Guidelines Overlay and pay for staff and consultant work to draft the overlay guidelines for Council consideration and approval. The process of formulating neighborhood specific design guidelines is anticipated to take at least a year to complete for each neighborhood. Once a neighborhood has gone through this process and if the City Council adopts an overlay, Single-Family House Permit applications would be reviewed by Planning to ensure new construction conformed with the adopted guidelines. Neighborhoods that may benefit most from this option are neighborhoods that may have an eclectic selection of styles of architecture where the characteristics of the neighborhood may be many and complex, and a thorough analysis would be required to determine how new construction

could appropriately fit in with the neighborhood. The filing of additional Single-Family House Permit applications could create the need for additional Planning staff to handle the increased workloads, maintain service delivery targets, and cost recovery goals.

Detailed neighborhood plans and design guidelines might be excellent future planning efforts after the completion of the General Plan Update. In this way, focused planning could occur for new villages in concert with identifying specific protections for nearby neighborhoods. Grants or other funding could be pursued for these efforts as an implementation measure of the General Plan Update currently underway.

Workload Assessment

The staff time necessary to create the enabling legislation for each of the options for the Distinctive Neighborhood Program is identified in Table 2.

Conclusion

No resources are available in the remainder of FY08/09 or FY09/10 to implement any of the four options. Should a small amount of resources become available, staff is recommending that the citywide policy option, regarding demolition of older homes and the Conservation Study Area be implemented first for the following reasons: they are variations of existing legislation; they address urgent concerns regarding demolitions; and they are more achievable to implement in the short term. The Zoning Overlay and the Design Guideline Overlay options present new ideas that may require significant work to implement and may be more appropriately considered as implementation measures for the General Plan Update.

Table 2 – Workload Implications of Distinctive Neighborhood Program policy options

	City Wide	Neighborhood Specific			All Four Options
Tasks	Permit to Demolish Older Homes	Conservation Study Area	Zoning Overlay	Design Guidelines Overlay	
Data Collection and Analysis	40 hrs	40 hrs.	60 hrs.	60 hrs.	200 hrs.
Ordinance and Staff Report Preparation	35 hrs	35 hrs.	50 hrs.	50 hrs.	170 hrs.
Community Outreach/Public Hearings	15 hrs.	15 hrs.	20 hrs.	20 hrs.	70 hrs.
Update Title 20 or Title 13.48 and Webpage, and Related Documents	10 hrs.	10 hrs.	20 hrs.	20 hrs.	60 hrs.
Total Hours	100 hrs	100 hrs.	150 hrs.	150 hrs.	500 hrs.

COST IMPLICATIONS

Should Council be interested in providing resources to implement the citywide policy option regarding demolitions and the Conservation Study Area only, funding would be needed of approximately \$30,000 for a 0.20 FTE of a Planner I/II. If Council directs staff to absorb the work associated with these two policy options, Council would need to acknowledge that other historic preservation streamlining and/or ordinances that facilitate economic development would be delayed until later in FY09/10 or possibly rescheduled to FY10/11. Implementation of all four policy options would entail \$67,230 for a 0.5 FTE of a Planner I/II.

POLICY ALTERNATIVES

The policy options for implementing a Distinctive Neighborhood Program are discussed in the Analysis section of this report.

EVALUATION AND FOLLOW UP

Should the City Council be interested in identifying funding sources to implement one or more of the policy options presented in this memo, Planning staff would work with the City Attorney's Office to draft Code revision(s) and discuss in outreach meetings prior to City Council consideration.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☒ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Due to the dedicated funding of a 0.5 FTE Planner for the Distinctive Neighborhood Program, the City pursued extensive public outreach conducted in two rounds. Staff reported the results of the first round of outreach to the City Council on February 3, 2009 (see attached staff report, dated January 12, 2009). To date, sixteen public meetings have been held to solicit input on the Distinctive Neighborhood Program. These meetings included six community meetings with the general public, and ten meetings with various stakeholder focus groups including: the Neighborhood Roundtable; the Developers Roundtable; the Construction Roundtable; the Historic Landmarks Commission; the

Planning Commission; and the American Institute of Architects. The implementation of a broad based public outreach strategy exceeded the adopted City Council Public Outreach Policy. Staff also prepared a Distinctive Neighborhood Program flyer providing general information about the Program which was distributed at numerous Strong Neighborhood Initiative - Neighborhood Advisory Committee meetings and made available to the general public at the meetings mentioned above and in the Planning Division's lobby.

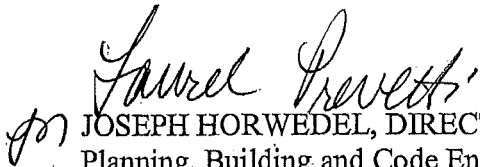
A website (http://www.sanjoseca.gov/planning/distinctive_neighborhood/) dedicated to the Distinctive Neighborhood Program was also created to provide a central location of all information regarding the Program. Visitors to the website who subscribed to the Distinctive Neighborhood Program mailing list received status reports on the progress of the Program and announcements for events.

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

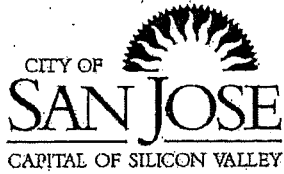
CEQA

Not a Project.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Akoni Daniels, Principal Planner, at 535-7823.

Attachments:
City Council memo on Initial Outreach



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: January 12, 2009

Approved

Date

1/21/09

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: DISTINCTIVE NEIGHBORHOOD PROGRAM STATUS; INITIAL PUBLIC OUTREACH AND POLICY OPTIONS

RECOMMENDATION

City Council review this report on the outcome of the initial public outreach for the Distinctive Neighborhood Program and provide comments for the continued development of this program.

OUTCOME

The City Council's comment and direction on the public input regarding existing City policies and the need for further enhancement and protection of single-family neighborhoods, will allow staff to effectively continue the development of the Distinctive Neighborhood Program and move forward with the analysis of policy options and development of policy recommendations for Council consideration in June 2009.

BACKGROUND

In the 2008/2009 fiscal year budget the City Council approved funding for the development of a "Distinctive Neighborhood Program" to address neighborhood concerns regarding the physical development of single-family neighborhoods, including: demolitions, additions and new construction that is out of character with existing neighborhoods. The Department of Planning, Building and Code Enforcement has been directed to develop this program, conduct outreach, and have a recommendation for City Council by June 2009.

The goal of the Distinctive Neighborhood Program is to add further protection and enhancement to San Jose's unique residential neighborhoods by: Defining and identifying the characteristics of distinct neighborhoods based on community input; Reviewing existing protections; and Proposing potential policy changes.

The City Council approved the Single-Family House (SFH) Permit process in 2000 to promote orderly development and to enhance the character, stability, integrity and appearance of single-family neighborhoods. A Single-Family House Permit is required for new construction that:

- Meets or exceeds 30 feet or 2 stories in height
- Has a F.A.R. (ratio of house floor area to lot area) that meets or exceeds 0.45
- Occurs on a site listed on the Historic Resources Inventory

SFH Permit applications are evaluated using the adopted *Single-Family Design Guidelines* that are intended to help maintain the quality of San Jose's neighborhoods. SFH Permits for historic homes and neighborhoods listed on the Inventory are evaluated using the adopted *Your Old House: Guide for Preserving San Jose Homes*.

If no Planning Permit is required, the property owner may proceed to the Building Division for building permits without any design review. The City's Municipal Code allows physical changes including demolition to facilitate new construction that can substantially alter homes and, over time through the cumulative effect of many individual demolitions and remodels, alter the character of entire neighborhoods.

ANALYSIS

During the first round of outreach for this program which began in October and ended in December 2008, staff conducted nine meetings to hear community concerns regarding their neighborhoods and to collect feedback on the proposed policy options. Five of the meetings were community workshops conducted at various locations throughout the city. These locations were strategically chosen with an attempt to get to all areas of the city. The other four meetings were conducted with various focus groups including: the Neighborhood and Developer's Roundtables, the Historic Landmarks Commission and the Planning Commission.

At each meeting staff presented the program and concluded the presentations with three questions to the community. The three questions are outlined below with a summary of community responses to these questions. The answers to the questions differed depending on whether residents were from older neighborhoods or from newer neighborhoods¹. Between January and April of 2009 staff will be conducting a thorough analysis of the policy options in light of community input received. The Discussion subsection below presents an initial analysis and forecast of that process.

Question 1: What are the characteristics in your neighborhood worth preserving?

Existing Architectural Styles and Design – Residents of older neighborhoods said they wanted to preserve the historic architectural styles, charm and character of existing homes in their neighborhood. They liked the vintage of their neighborhood and had an appreciation for the design and detail of homes, including the doors, windows, porches, facades, and eclectic quality and diversity of houses. Residents of older neighborhoods liked the pattern of detached garages which allows for a more "active" street frontage. Residents of newer neighborhoods did not have many comments regarding these issues.

¹ The term "older neighborhoods" refers primarily to pre World War II neighborhoods but may also include early post World War II homes.

Existing Density and Scale - Many residents of older neighborhoods said they wanted to preserve the size and scale of houses and the single story character of some neighborhoods. The general density and scale of streets including the existing lot patterns, setbacks and privacy were often mentioned as worth preserving. Residents also mentioned liking the continuity and uniformity of streets including the preservation of trees, the size of lots, the narrow width of streets and the existing single-family use and density of homes. Residents of low density neighborhoods said they wanted to preserve the small town feel of their neighborhoods such as the safe and friendly atmosphere, access to open space, size of lots and yards, height and privacy. They also stressed the importance of preservation of trees.

Question 2: What changes to your neighborhood would adversely affect the character?

Conservation of Existing Neighborhood Fabric - Residents of older neighborhoods expressed concerns regarding demolition of existing homes. This concern was prevalent in four out of the five community meetings and was often related to the type of construction replacing the house being demolished but was also voiced as a concern regarding the loss of historic fabric. There were many concerns regarding the replacement of original details of houses such as wood windows, doors, trim and siding with cheaper and more modern materials such as vinyl and stucco perceived as incompatible and out of character with the existing house and adjacent houses. Concerns were voiced over the loss of other architectural elements such as porches. Participants indicated that these replacements and losses cause properties to lose integrity over time. Residents were generally concerned about illegal remodels/replacements and conversions of garages and secondary units. Residents of newer neighborhoods were generally less concerned about existing fabric but did speak about the loss of landscaping and open space and the paving of front yards.

Residents of both newer and older neighborhoods voiced concerns about the loss of trees in neighborhoods and the need for more trees. Residents spoke about the removal of trees over time, and the removal of trees due to new development. Concern was voiced regarding heritage and potential heritage trees and the lack of maintenance of these trees.

Design and Scale of New Construction - Most residents of older neighborhoods were concerned with the design of new construction perceived as out of character with existing homes in the neighborhood. Residents indicated that some new development includes "cookie cutter" homes lacking the variety, proportion and eclectic quality of existing neighborhoods. Residents indicated that new development is often setback from the street inconsistently with existing homes. Reference was also made to the incompatibility of new houses with attached garages in neighborhoods that have primarily detached garages. Residents of newer neighborhoods generally did not voice concerns regarding these issues.

Residents of older and newer neighborhoods alike expressed concerns regarding the scale of new construction adjacent to single-family neighborhoods. Reference was made specifically to large homes perceived as out of scale and of out character with adjacent homes and regarding high density infill developments perceived as not fitting in with the surrounding neighborhood. Some concerns were expressed regarding incompatible second story additions and the loss of privacy and neighborhood character and continuity due to these developments. The edges of neighborhoods were seen as especially vulnerable to high density development.

Developers stressed the importance of property rights and said that certain remodels, such as second story additions, should be allowed by right, otherwise residents may be forced to move out of neighborhoods. They indicated that the permit process should not get too lengthy and that the City should consider the funding source for implementing this program. They said that change and growth are good because neighborhoods should be able to evolve over time to meet the needs of residents.

The Historic Landmarks Commission indicated that some Conservation Areas in San Jose originally surveyed in the 1970's needed updated survey work because some of these Conservation Areas may qualify as City Landmark Historic Districts. The Planning Commission discussed the balance between property rights and city growth and regulating development, some commissioners were concerned with the issue of regulating architectural style and design of new construction.

Question 3: Should the policy be city wide or neighborhood specific?

City Wide Policy Option – Residents of older neighborhoods indicated that demolitions can cause negative impacts on neighborhoods and should be assessed city wide quickly. A city wide option would be a quicker solution to the problem, set up in such a way as to take specific context into account as is done in the *Residential Design Guidelines* which outline recommendations in specific contexts. A suggestion was made to create a checklist of city wide neighborhood characteristics where specific neighborhoods could check the characteristics that apply to their neighborhood. This could be a quick solution to deal with specific neighborhoods through a city wide approach.

Residents of older and newer neighborhoods felt demolitions and significant remodels; and the relationship of high density to single-family neighborhoods should be handled through a city wide approach.

Neighborhood Specific Policy Option – Many residents felt that a neighborhood specific approach is more appropriate since every neighborhood is different. Some neighborhoods may prefer tighter regulations while others would not. Residents emphasized that neighborhood individuality and distinct qualities are important to preserve and a neighborhood specific approach would therefore be more appropriate. Opinions differed regarding the type of neighborhood specific approach warranted. Some resident preferred an Enhanced Design Review Overlay (which would result in neighborhood specific design guidelines), while others thought a Zoning Overlay (which would result in neighborhood specific development standards) is a better approach. Some residents thought both should be applied to certain neighborhoods. However, there was general consensus regarding the appropriateness of a Conservation Study Area² for older neighborhoods.

Some residents suggested a "buffer zone" at the edge of single-family neighborhoods as a transition zone between high density development and single-family neighborhoods; need for more notification of development especially when a house is being demolished or significantly remodeled; more incentives for rehabilitation of historic homes; and an affordable, streamlined permit process.

² A Conservation Study Area would aim at streamlining the surveying process to identify historic neighborhoods. See attachment A for more information regarding the policy options presented.

Discussion

From the input received a clear difference is apparent between the concerns of residents of older neighborhoods compared to residents of newer neighborhoods. Residents of older neighborhoods felt a lot more protective of the architectural style and design of their neighborhood and were therefore more concerned with the loss of existing fabric and any new development that was incompatible with the existing design of homes. However, residents of older and newer neighborhoods alike were protective of the scale and density of their neighborhood. Due to this differentiation, staff will explore policy recommendations that take into account the age of neighborhoods.

City Wide Policy Options - Staff intends to explore that the following aspects that could be appropriately handled through a city wide option:

Demolitions of houses over a certain age - Demolitions were a major concern of residents of older neighborhoods and were perceived as an urgent issue. One City wide policy option may be to add demolitions of houses over a certain age as one of the thresholds for requiring a Single-Family House Permit. Through this permit process staff could require a historic evaluation for potential historic houses.

Size and height of new homes and major remodels/additions - Since the issue of scale and density were concerns of residents of older as well as newer neighborhoods a City wide policy will be explored to deal with this issue. Residents were more concerned with the appearance and scale of the front of the house than that of the rear. Policy analysis will include reviewing the current Single-Family House Permit thresholds outlined in the Zoning Code to determine whether revisions are needed to regulate the size and architectural character of the front of a house allowing for more flexible regulations at the rear. A system whereby the single-family house permit threshold requirements would take into account the context of the proposed project will also be considered.

Single-Family Design Guideline Update - From the input received it is apparent that although neighborhoods are very different there are certain distinct mid century neighborhoods, such as ranch-style and Eichler developments dispersed in different areas in San Jose. One option would be to update the *Single Family Design Guidelines* to include specific design goals for specific types of neighborhoods city wide.

Neighborhood Specific Policy Option - Neighborhood specific policy options would be evaluated for neighborhoods that request additional restrictions and protection. The implementation of these options would all require additional resources. Neighborhood boundaries would need to be identified and these neighborhoods would have to go through a designation process.

Project Scope - The scope of this program is still being defined and is generally focused on single-family development and permitting in San Jose. The community raised some concerns that are outside but related to the scope. These include but are not limited to the development of high density housing adjacent to single-family homes and preservation of trees. Public input on these topics is being referred to the appropriate city staff.

EVALUATION AND FOLLOW UP

Planning staff have completed the initial round of outreach. An evaluation of policy options will conclude in May of 2009. Staff will conduct another round of outreach between April and May of 2009 and anticipates presenting policy option recommendation to the Neighborhood Services and Education Council Committee at this time. A final recommendation to the City Council will be presented in June of 2009.

PUBLIC OUTREACH/INTEREST

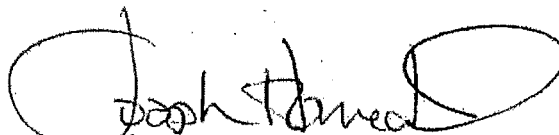
- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☒ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Akoni Daniels, Principal Planner, at 535-7823.

Memorandum

ATTACHMENT A – POLICY OPTIONS PRESENTED

Taking into account the initial concerns raised prior to the City Council's funding approval for the development of this program, staff developed some draft policy options intended to address the deficiencies associated with the current regulations and process for the development of single-family homes in the City. These policy options were presented to the community at the various community meetings and workshops and included a City Wide Policy Option and three Neighborhood Specific Policy Options detailed below.

City Wide Policy Option

This policy option would apply to all neighborhoods in San Jose and would require a Zoning Code revision that would change or add new thresholds for requiring a Single-Family House permit. Potential new thresholds for requiring design review could be: proposed demolitions, second story additions, additions affecting front façades and additions over a certain size (different from the size threshold currently in place). If this policy option were adopted a Single-Family House permit would be required for all or any of the above potential thresholds city wide.

Neighborhood Specific Policy Option

This policy option would apply to specific neighborhood in San Jose. This option would require the identification of neighborhood boundaries and the designation of neighborhoods that would be affected by this policy. Three sub options in this category were presented and included the Enhanced Design Review Overlay, the Zoning Overlay and the Conservation Area. These options are discussed below.

A. Enhanced Design Review Overlay – This option would result in neighborhood specific design guidelines that would guide Planning staff in the review of development of single-family homes in a particular neighborhood. The guidelines would encourage development that would be compatible with the existing fabric of the neighborhood but may not be applicable to other neighborhoods with different architectural styles and characteristics. Implementation of this option would require researching certain neighborhoods in San Jose through a collaborative process with the residents of the neighborhoods to identify the distinct characteristics of each neighborhood and determine how new development can address modern needs, fit in and enhance the neighborhood.

January, 12 2009

Subject: Distinctive Neighborhood Program

Page 2

B. Zoning Overlay – This option would result in a Zoning change for a particular neighborhood. As in option A, Planning staff would work with neighborhood residents to identify the distinct characteristics of their neighborhood. In this case the research would result in neighborhood specific zoning standards that could do one of the following:

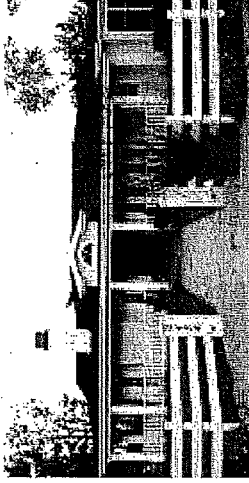
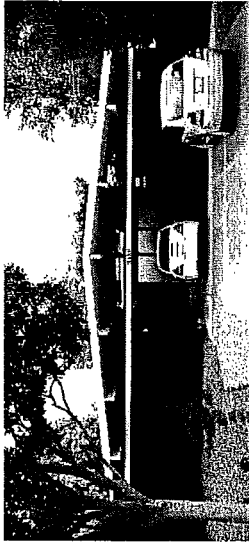
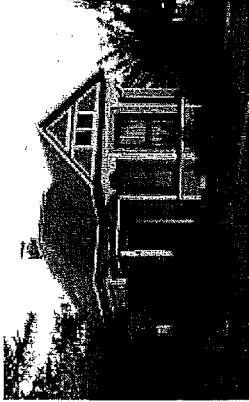
1. Determine new thresholds for requiring a Single-Family House Permit as detailed in the City Wide Policy Option above, but specific to the applicable neighborhood only.
2. Determine new, neighborhood specific, development standards such as revised setbacks, single story or height limits, etc.

The Zoning Overlay would not replace a standard conventional Zoning designation for an area but rather override certain standards only. For example, if a certain area in San Jose had a zoning designation of R-1-8 the Zoning Overlay could result in larger or smaller front setbacks for that area but would still be subject to all other requirements of the R-1-8 zoning.

C. Conservation Study Area – This option would be applicable to older neighborhoods that have the potential to become Conservation Areas but have not gone through the required survey process. This option is aimed at streamlining the surveying process. The current designation process for becoming a Conservation Area requires a survey which is typically done by a historic consultant and includes two parts:

1. A Context Statement which involves an analysis of general development patterns and history of a subject area, and
2. Individual historic evaluations of every building in a subject area.

The Conservation Study Area is a proposal to require the Context Statement only for the designation of an area. Individual evaluations would be required as development proposals come in to the city and only if a proposed development does not meet applicable guidelines. A Conservation Study Area would have the same protections and State and Historic Building Code incentives as a Conservation Area. This policy option would allow areas to become Conservation Study Areas more quickly and at less expense than Conservation Areas.

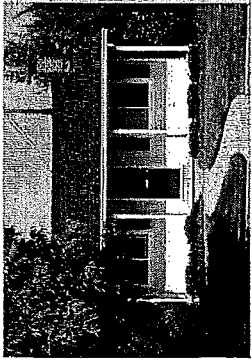


Distinctive Neighborhood Program Policy Options

Neighborhood Services & Education Committee

**Thursday May 14, 2009
San Jose City Hall**

City of San José



Existing Permitting Process



A Single-Family House Permit is required if:

- New construction exceeds 30 feet or 2 stories in height,
- The floor area ratio (F.A.R.) of the house exceeds 0.45,
- The house is listed on the Historic Resource Inventory.



Currently No Design Review

Addition/Demolition below SF House Permit Size Thresholds and not listed on Historic Resource Inventory:



Building Permit
(No Design Review)



Outreach Results

Residents of Older Neighborhoods

Residents of Newer/rural Neighborhoods

Architectural Style and Design
Loss of Fabric

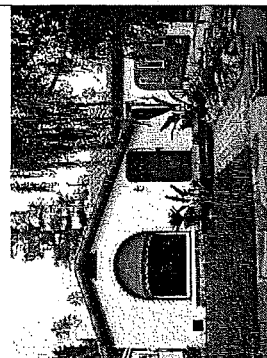
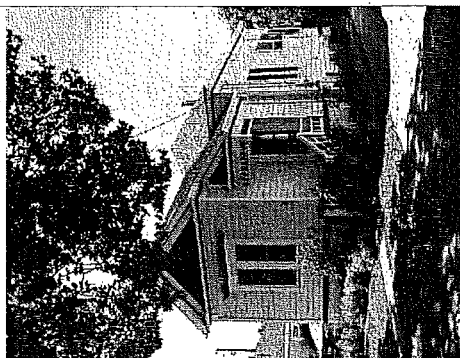
- Demolitions
- Loss of architectural elements and details
- Design of new construction
- Attached garages
- Inconsistent setbacks
- Loss and maintenance of trees

Bulk and Scale

- High density infill
- Monster Homes
- Second stories
- Loss of privacy

Open Space

- Loss of Landscaping and open space
- Loss and maintenance of trees





Four Policy Options

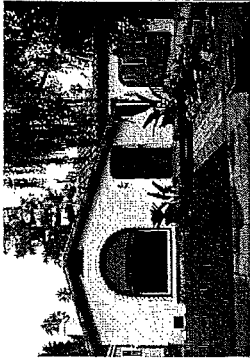
City Wide

Consider adding as SFH
Permit Thresholds:

- Demolitions of houses over a certain age (50) or built before a certain date (1945).

Neighborhood Specific

- City would create a Toolkit of overlays available to community:
- 1. Conservation Study Area
- 2. Zoning Overlay
- 3. Design Guidelines Overlay



Policy Options - City Wide

Require Permit Citywide to Demolish Older Homes

Add one of the following as a SFH permit trigger



a. Demolitions of homes over a certain age (50 years)



b. Demolitions of homes built before a certain date (1945)

Neighborhoods Affected:
Older neighborhoods



Policy Options – Neighborhood Specific

Toolkit Option 1 - Conservation Study Area

Allows for a streamlined survey process



Designation Process same as Conservation Areas except:

Context Statement

No individual historic evaluations required at this time

Design Review

SFH Permit required

If proposal does not meet Guidelines then,

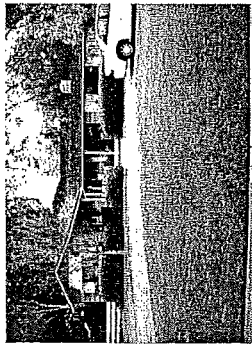
Individual historic evaluation required

Incentives

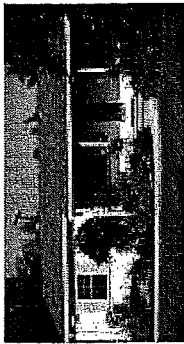
State Historic Building Code



Potential Neighborhoods Affected:
Northside, Willow Glen, The Rose
Garden and other older neighborhoods



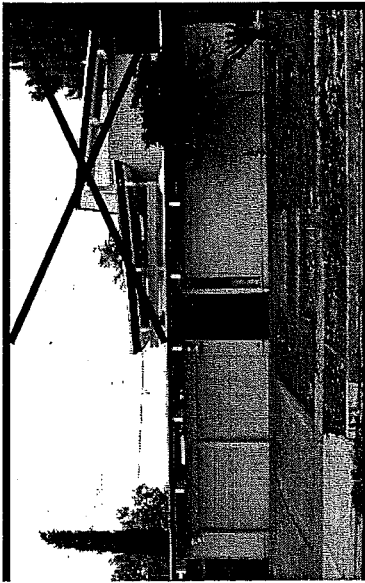
Policy Options – Neighborhood Specific



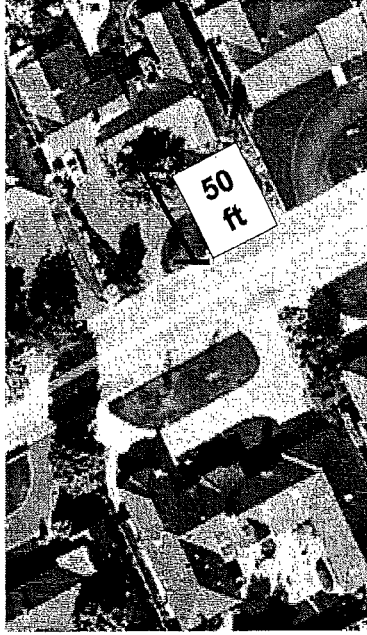
Toolkit Option 2 – Zoning Overlay

Distinct Development Standards for Designated Area

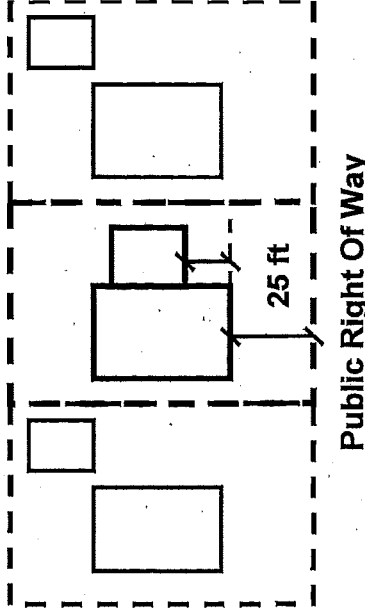
Single Story District



Distinct Setbacks



Attached Garages



Potential Criteria for Designation:

- Agreement of 2/3 of property owners.
- The neighborhood should be clearly delineated.
- The neighborhood must consist a minimum number of homes.
- Characteristic must be present in 75% of the homes.

**Potential
Neighborhoods
Affected:
Eichler
Neighborhoods and
others**



Policy Options – Neighborhood Specific



Toolkit Option 3 – Design Guidelines Overlay

Criteria for Designation:

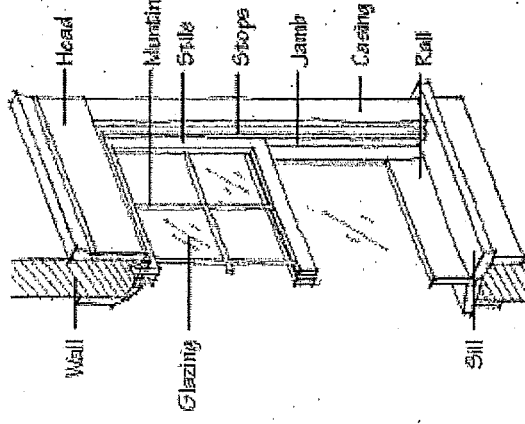
Same as Zoning Overlay

Implementation Implications:

Residents would pay for:

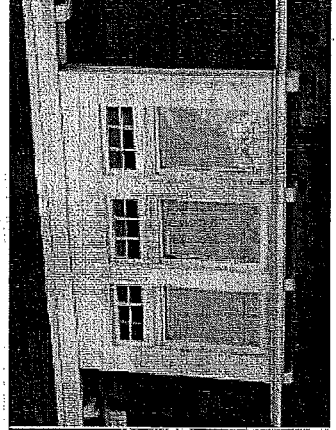
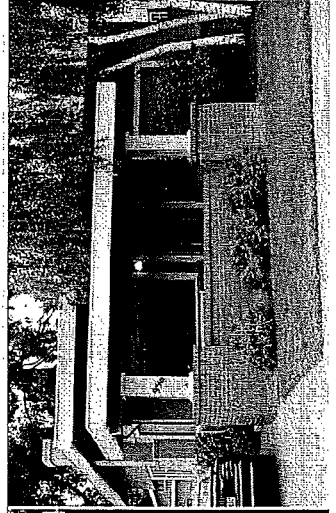
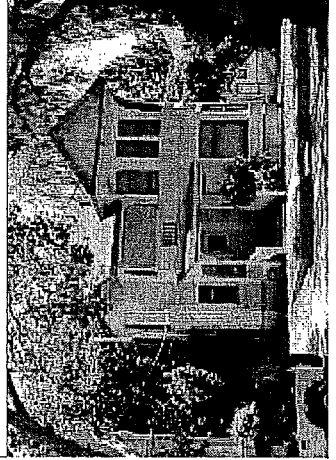
- consultants to draft guidelines
- planner to work with consultant

This process would take at least a year



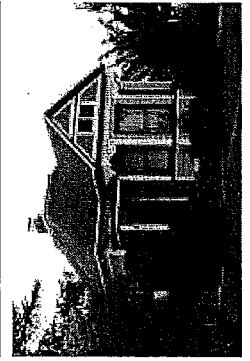
**Potential
Neighborhoods
Affected:**

**Willow Glen,
The Rose Garden,
Northside, other**





Conclusion



- No resources available for implementation

- Work plan tradeoffs with Citywide option for demolitions and Conservation Study Area

- Zoning and Design Guidelines Overlays as possible implementation measures for the General Plan Update

